

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

JACQUELINE SMITH,
individually and on behalf of a class,

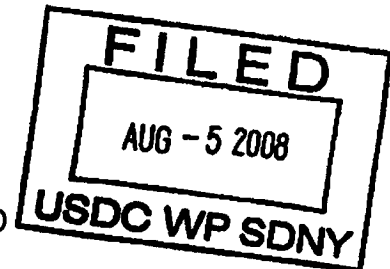
Plaintiffs,

v.

ALLIED INTERSTATE, INC.,

Defendant.

AMENDED
COMPLAINT - CLASS ACTION



**08 CIV. 6986
JUDGE BAER**

INTRODUCTION

1. Plaintiff brings this action to secure redress from unlawful credit and collection practices engaged in by defendant Allied Interstate, Inc. Plaintiff alleges violation of the Fair Debt Collection Practices Act, 15 U.S.C. §1692 et seq. ("FDCPA").

2. The FDCPA broadly prohibits unfair or unconscionable collection methods; conduct which harasses, oppresses or abuses any debtor; and any false, deceptive or misleading statements, in connection with the collection of a debt; it also requires debt collectors to give debtors certain information. 15 U.S.C. §§1692d, 1692e, 1692f and 1692g.

JURISDICTION AND VENUE

3. This Court has jurisdiction under 15 U.S.C. §1692k (FDCPA), 28 U.S.C. §1331 and 28 U.S.C. §1337.

4. Venue and personal jurisdiction in this District are proper because:

- a. Defendant's collection communications were received by plaintiff within this District;
- b. Defendant does business within this District.

PARTIES

5. Plaintiff, Jacqueline Smith, is an individual who resides in New York

City.

6. Defendant, Allied Interstate, Inc., is a corporation chartered under Minnesota law with offices at 100 Park Avenue, 9th Floor, New York, NY 10017. Its registered agent is the CT Corporation System, 111 8th Avenue, Floor 13, New York, NY 10011.

7. Defendant is engaged in the business of a collection agency, collecting debts allegedly owed to others.

8. Defendant is a debt collector as defined in the FDCPA.

FACTS

9. On or about May 7, 2008, plaintiff was sent the collection letter attached as Exhibit A, bearing defendant's name and logo.

10. Exhibit A sought to collect a debt incurred for personal, family or household purposes, namely book club fees.

11. Exhibit A is a standard form document.

12. More than 200 examples of Exhibit A have been sent out during the last 12 months.

13. Exhibit A is sent out with the knowledge and consent of defendant.

14. Exhibit A has a bar-coded address, which the Postal Service requires for mail that is sent in volume to qualify for discounted postage.

15. Documents in the form represented by Exhibit A are regularly sent to collect delinquent debts allegedly owed to Bertelsmann Direct North America, Inc. d/b/a Quality Paperback Book Club.

16. Exhibit A invites contact at "Allied Phone: (717) 918-2665."

17. Immediately below the "Allied Phone" is the statement, in a box, that "This demand for payment has been sent to you by a Collection Agency. . . ."

18. The telephone number (717) 918-2665 does not belong to Allied Interstate, Inc.

19. The statement that the telephone number (717) 918-2665 is an "Allied Phone" is false.

20. The telephone number (717) 918-2665 belongs to Bertelsmann Direct North America, Inc. d/b/a Quality Paperback Book Club, as shown by the Better Business Bureau listing attached as Exhibit B.

21. Exhibit A is a device intended to use the name of a collection agency, Allied Interstate, Inc. to mislead, frighten and intimidate consumers into contacting Bertelsmann Direct North America, Inc. d/b/a Quality Paperback Book Club.

VIOLATION ALLEGED

22. Exhibit A violates 15 U.S.C. §§1692 and 1692e(10).

23. Section 1692e provides:

§ 1692e. False or misleading representations [Section 807 of P.L.]

A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section: . . .

(10) The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer. . . .

CLASS ALLEGATIONS

24. Plaintiff brings this action on behalf of a class, pursuant to Fed.R.Civ.P. 23(a) and 23(b)(3).

25. The class consists of (a) all individuals (b) with New York addresses (c) who were sent a letter in the form represented by Exhibit A (d) on or after a date one year prior to the filing of this action, and less than 20 days after the filing of this action.

26. The class is so numerous that joinder of all members is not practicable. On information and belief, there are at least 40 members of the class.

27. There are questions of law and fact common to the class, which common

questions predominate over any questions relating to individual class members. The predominant common question is whether Exhibit A violates the FDCPA.

28. Plaintiff's claim is typical of the claims of the class members. All are based on the same factual and legal theories.

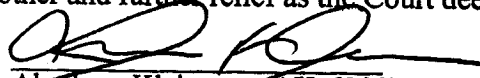
29. Plaintiff will fairly and adequately represent the class members. Plaintiff has retained counsel experienced in class actions and FDCPA litigation.

30. A class action is superior for the fair and efficient adjudication of this matter, in that individual actions are not economically feasible.

- a. Members of the class are likely to be unaware of their rights;
- b. Congress intended class actions to be the principal enforcement mechanism under the FDCPA.

WHEREFORE, the Court should enter judgment in favor of plaintiff and the class and against defendant for:

- (1) Statutory damages;
- (2) Attorney's fees, litigation expenses and costs of suit;
- (3) Such other and further relief as the Court deems proper.


Abraham Kleinman (AK-6300)

Abraham Kleinman
KLEINMAN LLC
626 RexCorp Plaza
Uniondale, New York 11556-0626
(516) 522-2621
(888) 522-1692 (FAX)

Daniel A. Edelman
Cathleen M. Combs
EDELMAN, COMBS, LATTURNER
& GOODWIN, LLC
120 S. LaSalle Street, 18th Floor
Chicago, Illinois 60603
(312) 739-4200
(312) 419-0379 (FAX)

Pro hac vice admission to be applied for.

JURY DEMAND

Plaintiff demands trial by jury.

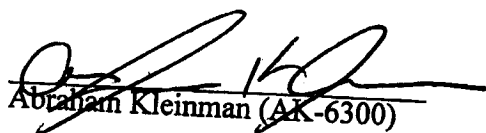

Abraham Kleinman (AK-6300)

Exhibit A

P.O. Box 1089
Buffalo, NY 14240-1089



Consumer Service Department
PO Box 5023
New York, NY 10163
M-F 9 am - 5 pm CST
(800)210-0434

Client Name: Quality Paperback Book Club
Amount Due: \$42.44
Client Ref. #: 706606262
Placement ID: 0242737273
Allied Phone: (717)918-2665

This demand for payment has been sent to you by a Collection Agency. We are contacting you on behalf of Quality Paperback Book Club

Notice Dated: 5/7/2008

011 514577120
001455/0007
JACQUELINE SMITH
200 W 145TH ST APT 7
NEW YORK, NY 10039 4109

New York license No.: 0933734. This is an attempt to collect a debt.
Any information obtained will be used for that purpose.

Our client Quality Paperback Book Club has asked that we contact you regarding your past due balance. To restore your Quality Paperback Book Club account and further enjoy the benefits of your membership, you must pay the above Amount Due. Non payment will place your account in further violation of your agreement and Quality Paperback Book Club may charge you \$18.89 for each remaining selection you agreed to purchase. This will amount to \$18.89 which includes shipping and handling fees, plus any applicable sales tax. Our client's records state that you still have 1 selection(s) remaining to purchase in order to fulfill your contractual agreement.

Because you have failed to pay the Amount Due, our client has listed your name with The Credit Index, a consumer reporting agency. Your outstanding balance will be available to other direct marketing subscribers using this service. A resolution of the Amount Due will update this account to good standing on The Credit Index files.

You can resolve this matter by sending payment in full to Quality Paperback Book Club. Make your check out for \$18.89 payable to Quality Paperback Book Club and mail it in the envelope provided. The following payment options are also available for your convenience; you may provide us with your debit or credit card number below or you may pay your bill online with your debit or credit card at: www.qpb.com.

If payment has already been made, please disregard this notice.

Pay This Amount \$42.44
706606262
Quality Paperback Book Club
Client Ref. No: 706606262

Charge to my: 2
() MC () Visa () AMEX
Card # _____ Exp. Date _____
Signature _____

Customer Service
Quality Paperback Book Club
PO Box 916536
Indianapolis, IN 46291

8004244 6 706606262 9004244981

EXHIBIT B

**BBB Reliability Report for
Bertelsmann Direct North
America, Inc.**

A BBB Accredited business since 9/30/2002

BBB issues Reliability Reports on all businesses, whether or not they are BBB accredited. If a business is a BBB Accredited Business, it is stated in this report.
Find out more about this business:

Reported on Monday, August 4, 2008 7:17 PM

Customer Experience	Alternate Business Names
Business Contact and Profile	Government Actions
Additional Locations and Phone Numbers	Advertising Review
Licensing	Additional Information
Customer Complaint History	
BBB Program	

Customer Experience

The company has been responsive to any complaints brought to its attention by the Bureau.

Business Contact and Profile

Name: Bertelsmann Direct North America, Inc.

Phone: (717) 697-0311

Address: 1225 South Market Street, Mechanicsburg, PA 17055

[Google map](#) [Mapquest map](#) [Yahoo map](#)

Business Category: Books-New, Internet Shopping Services

Web Address: www.insightoutbooks.com

www.bomc.com

www.bookplanetbookclub.com

BBB file opened: January 01, 1979

Business started: January 1960

Business started locally: January 1960

Primary Contact: Mr. Marcus Wilhelm (CEO)

Complaint Contact: Ms. Brenda Stevens (Complaints)

Additional Locations and Phone Numbers

P.O. Box 6463, Camp Hill, PA 17012-6463, Cumberland County
[Google map](#) [Mapquest map](#) [Yahoo map](#)

P. O. Box 6401, Camp Hill, PA 17012, Cumberland County
[Google map](#) [Mapquest map](#) [Yahoo map](#)

P. O. Box 6400, Camp Hill, PA 17012
[Google map](#) [Mapquest map](#) [Yahoo map](#)

P. O. Box 6432, Camp Hill, PA 17012, Cumberland County
[Google map](#) [Mapquest map](#) [Yahoo map](#)

Customer Service, Camp Hill, PA 17012, Cumberland County
[Google map](#) [Mapquest map](#) [Yahoo map](#)

P.O. Box 6455, Camp Hill, PA 17001-9284, Cumberland County
[Google map](#) [Mapquest map](#) [Yahoo map](#)

P.O. Box 6375, Camp Hill, PA 17012, Cumberland County
[Google map](#) [Mapquest map](#) [Yahoo map](#)

P.O. Box 6402, Camp Hill, PA 17012, Cumberland County

Google map Mapquest map Yahoo map
P.O. Box 6431, Camp Hill, PA 17012, Cumberland County
Google map Mapquest map Yahoo map
P. O. Box 6307, Camp Hill, PA 17012, Cumberland County
Google map Mapquest map Yahoo map
P. O. Box 6301 or P. O. Box 6375, Camp Hill, PA 17012
Google map Mapquest map Yahoo map
P.O. Box 6462, Camp Hill, PA 17012, Cumberland County
Google map Mapquest map Yahoo map
P.O. Box 6461, Camp Hill, PA 17012, Cumberland County
Google map Mapquest map Yahoo map
PO BOX 6402, CAMP HILL, PA 17012
Google map Mapquest map Yahoo map
P.O. Box 6381, Camp Hill, PA 17012, Cumberland County
Google map Mapquest map Yahoo map
501 Franklin Avenue, Garden City, NY 11530, Nassau County
Google map Mapquest map Yahoo map
505 Ridge Avenue, Hanover, PA 17332
Google map Mapquest map Yahoo map

(717) 918-1070
(717) 918-1074
(717) 918-2665
(717) 918-2665
(717) 918-2669
(717) 918-4099
(717) 918-4120
(717) 918-6633
(717) 918-6633
(717) 918-6633

Customer Complaint History

The company's size, volume of business and number of transactions may have a bearing on the number of complaints received by the BBB. The complaints filed against a company may not be as important as the type of complaints, and how the company has handled them. The BBB generally does not pass judgment on the validity of complaints filed.

Number of complaints processed by the BBB
in the last 36 months: **733**
in the last 12 months: **202**

Complaints Concerned:

Selling Practices (198 complaints)

198 Resolved

Advertising Issues (49 complaints)

49 Resolved

Service Issues (69 complaints)

69 Resolved

Credit or Billing Disputes (255 complaints)

255 Resolved

Delivery Issues (48 complaints)

48 Resolved

Refund Practices (27 complaints)

27 Resolved

Product Quality (2 complaints)

2 Resolved

Contract Disputes (83 complaints)

83 Resolved

Guarantee or Warranty Issues (1 complaints)

1 Resolved

Repair Issues (1 complaints)

1 Resolved

Alternate Business Names

Architects & Designers Book Service

Behavioral Science Book Service
Bertelsmann Direct North America
Black Expressions
Book Planet
Book-of-the-Month-Club
Bookspan
Children's Book of the Month Club
Computer Books Direct
Crafter's Choice
Crossings Book Club
Discovery Channel Book Club
Doubleday Book Club
Doubleday large print
Early Childhood Teachers
Equestrians Edge
History Book Club
Home Style Books (Country Homes & Gardens)
Insightout Book Club
Library of Science
Library of Speech Pathology
Literary Guild
Literary Guild Select
Military Book Club
Mosaic Book Club
Mystery Guild Book Club
Nurse's Book Society
One Spirit Book Club
Outdoorsman's Edge
Outdoorsman's Edge Book Club
Quality Paperback Book Club
Rhapsody Books
Science Fiction Book Club
Scientific American Book Club
Smart Reader Rewards
Smartreaderrewards.com
The Good Cook
The Literary Guild
YESolutions
zooba.com

Government Actions

On September 8, 2006, the Pennsylvania Attorney General's Bureau of Consumer Protection (BCP) announced the signing of an Assurance of Voluntary Compliance agreement with the company to resolve alleged violations of the PA Consumer Protection Law (CPL). Prior to the agreement, BCP investigators and customer complaints alleged that the company failed to properly process, ship, charge and/or credit direct mail order books. Under the terms of the agreement, the company admits no wrong-doing and agrees to cease violations of the CPL, respond promptly to any written complaint, and pay civil penalties and investigative costs associated with this action. For more information on this action, please contact the BCP at 800-441-2555 or www.attorneygeneral.gov.

Advertising Review

The BBB has no information regarding Ad Reviews at this time.

Additional Information

According to information supplied by the Company, Bookspan was formed as a result of a merger between Book of the Month and Double Day Book Club. The Bureau opened its file on Book of the Month in 1979.

As a matter of policy, the BBB does not endorse any product, service or business.

BBB Reliability Reports are provided solely to assist you in exercising your own best judgment. Information in this BBB Reliability Report is believed reliable, but not guaranteed as to accuracy.

BBB Reliability Reports generally cover a three-year reporting period. BBB Reliability Reports are subject to change at any time.

If you choose to do business with this business, please let the business know that you contacted the BBB for a BBB Reliability Report.

ID: 80020268

Report as of: 8/4/2008 7:17 PM

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